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District Counsel

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In re

TULARE LOCAL HEALTHCARE
DISTRICT, dba TULARE REGIONAL
MEDICAL CENTER,

Debtor.

Tax ID #: 94-6002897
Address: 869 N. Cherry St.
Tulare, CA 93274

CASE NO. 17-13797

Chapter 9

DC No.: WW-23

Date: N/A
Time: N/A
Place: 2500 Tulare Street
Fresno, CA 93721
Courtroom 13
Judge: Honorable René Lastreto II

**STIPULATION FOR ASSUMPTION OF EXECUTORY CONTRACT
(BETA Risk Management Authority)**

Tulare Local Healthcare District, dba Tulare Regional Medical Center ("TRMC"),
the debtor in the above-captioned case, and BETA Risk Management Authority

1 ("BETARMA"), with reference to the stipulated facts set forth herein, hereby stipulate and
2 agree as set forth below.

3 **STIPULATED FACTS**

4 1. On September 30, 2017 ("Petition Date"), TRMC commenced its
5 Chapter 9 case.

6 2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 157
7 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core
8 proceeding under 28 U.S.C. § 157(b)(2).

9 3. This stipulation is entered into pursuant to 11 U.S.C. §§ 365 and 901 and
10 LBR 9019.

11 4. TRMC is a California healthcare district formed in 1945 under the State of
12 California Local Healthcare District Law (formerly the Local Hospital District Law) as set
13 forth in the California Health and Safety Code.

14 5. BETARMA is a joint powers authority organized and existing under the laws
15 of the State of California. BETARMA provides professional liability, directors and officers,
16 workers compensation and automobile coverage to hospital districts and nonprofit
17 hospitals.

18 6. TRMC is a party to the following executory contracts with BETARMA:

19 (1) Healthcare Entity Comprehensive Liability Coverage Contract,
20 Contract No. HCL-17-361 (the "HCL Contract"), with a term beginning July 1, 2017 at
21 12:01 a.m. and ending July 1, 2018 at 12:01 a.m. A true and correct copy of the HCL
22 Contract is attached as Exhibit A and incorporated herein by reference;

23 (2) Auto Liability and Physical Damage Coverage Contract, Contract No.
24 AL-17-361 (the "Auto Liability Contract"), with a term beginning July 1, 2017 at 12:01 a.m.
25 and ending July 1, 2018 at 12:01 a.m. A true and correct copy of the Auto Liability
26 Contract is attached as Exhibit B and incorporated herein by reference; and

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1 (3) Directors, Officers and Trustees Liability Coverage Contract,
2 Contract No. D&O-17-361 (the "D&O Liability Contract"), with a term beginning July 1,
3 2017 at 12:01 a.m. and ending July 1, 2018 at 12:01 a.m. A true and correct copy of the
4 D&O Liability Contract is attached as Exhibit C and incorporated herein by reference.

5 **HCL Contract**

6 7. The HCL Contract requires monthly contributions from TRMC in the amount
7 of \$63,217.50. The contributions are due on the 15th day of each month and late if not
8 paid by the last day of the month. Contributions not paid by the last day of the month in
9 which they are due accrue a late charge equal to 5% of the contribution amount, in this
10 case \$3,160.88.

11 8. The contribution of \$63,217.50 due in September 2017 has not been paid
12 and thus accrued a late charge of \$3,160.88. As of the date of this Stipulation, the amount
13 due for the month of September 2017 is \$66,378.44.

14 9. The contribution of \$63,217.50 due in October 2017 has not been paid and
15 thus accrued a late charge of \$3,160.88. As of the date of this Stipulation, the amount
16 due for the month of October 2017 is \$66,378.44.

17 10. The contribution of \$63,217.50 due on November 15, 2017 was paid on
18 December 1, 2017 and thus accrued a late charge of \$3,160.88, because it was not paid
19 by November 30, 2017. As of the date of this Stipulation, the amount due for the month
20 of November 2017 is \$3,160.88.

21 11. The next monthly contribution of \$63,217.50 is due on December 15, 2017,
22 and will incur a late charge of \$3,160.88 if not paid on or before December 31, 2017. As
23 of the date of this Stipulation, the amount due for the month of December 2017 is
24 \$63,217.50.

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1 12. BETARMA has received and is handling certain claims tendered by TRMC.
2 Each of those claims is subject to a \$100,000 indemnity only deductible. TRMC owes
3 BETARMA \$100,000 for a deductible billed to TRMC on November 1, 2017, which amount
4 was due on December 1, 2017. As of the date of this Stipulation, the amount due for
5 unpaid deductibles is \$100,000.

6 13. As of the date of this Stipulation the total amount necessary to bring the
7 required payments under the HCL Agreement current is \$299,135.26.

8 14. In addition to paying the contributions and deductibles required under the
9 HCL Contract, TRMC is obligated to perform various duties as set forth in the HCL
10 Contract, including, but not limited to, those specified in Section 7.10.

11 **Auto Liability Contract**

12 15. The Auto Liability Contract contribution of \$7,470 was paid in full at the start
13 of the contract term.

14 16. Under the Auto Liability Contract, BETARMA provides combined single limit
15 liability coverage for up to \$5,000,000.

16 17. In addition to paying the contributions required under the Auto Liability
17 Contract, TRMC is obligated to perform the following duties as set forth in the Auto
18 Liability Contract, including, but not limited to, those specified in Section 7.4.

19 **D&O Liability Contract**

20 18. The D&O Liability Contract contribution of \$106,367 was paid in full at the
21 start of the contract term.

22 19. In addition to paying the contributions required under the D&O Liability
23 Contract, TRMC is obligated to perform various duties as set forth in the D&O Liability
24 Contract, including, but not limited to, the those specified in Section 5.4.

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1 20. TRMC has evaluated and considered its financial position using its best
2 business judgment and has determined that the HCL Contract, the Auto Liability Contract,
3 and the D&O Liability Contract are essential to TRMC's operations and intended plan of
4 adjustment and that the prices for coverage are acceptable as fair and reasonable under
5 the circumstances. Accordingly, subject to the terms of this Stipulation, TRMC hereby
6 seeks to assume the HCL Contract, the Auto Liability Contract, and the D&O Liability
7 Contract pursuant to 11 U.S.C. §§ 365 and 901 and cure the defaults.

8 21. In order to cure the amounts owed under the HCL Contract, TRMC and
9 BETARMA have worked out an arrangement whereby BETARMA will waive the late charges
10 and TRMC will make the regular monthly payments of \$63,218 for December 2017
11 through June 2018, and then, beginning with February 2018 through April 2018, TRMC
12 will increase its monthly payments according to the Payment Plan, a true and correct copy
13 of which is attached hereto as Exhibit D, such that all past due amounts, including
14 amounts owed for the past due contributions and past due deductibles, are paid not later
15 than April 30, 2018.

16 STIPULATION AND AGREEMENT

17 Subject to Court approval, TRMC and BETARMA (collectively "the Parties") hereby
18 stipulate and agree as follows:

19 22. The foregoing Stipulated Facts are incorporated herein by reference.

20 23. TRMC agrees to assume the HCL Contract, the Auto Liability Contract
21 and the D&O Liability Contract pursuant to 11 U.S.C. §§ 365 and 901.

22 24. BETARMA consents to TRMC's assumption of the HCL Contract, the Auto
23 Liability Contract and the D&O Liability Contract on the terms of this Stipulation.

24 25. The Parties agree that the payment arrangements described above in
25 Paragraph 21 as shown on the attached Payment Plan constitute a cure of the
26 Coverage Contract pursuant to 11 U.S.C. § 365(b)(1)(A).

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1 26. TRMC shall be required to make all payments set forth in Exhibit D in a
2 timely manner on or before the last day of the indicated month, as well as any additional
3 deductible obligations that may arise, and failure to do so shall constitute a default
4 under the terms of the HCL Contract, entitling BETARMA to exercise all of its rights and
5 remedies thereunder.

6 27. The Parties agree that TRMC shall forthwith seek approval of this
7 Stipulation and BETARMA consents to having the motion approved on shortened time.

8 IT IS SO STIPULATED.

9 Dated: December 28, 2017

TULARE LOCAL HEALTHCARE DISTRICT, dba
TULARE REGIONAL MEDICAL CENTER

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12 By: 

Sanford Haskins
Chief Administrative Officer of Tulare Local
Healthcare District, dba Tulare Regional Medical
Center

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14
15 Dated: December 28, 2017

BETA RISK MANAGEMENT AUTHORITY

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17 By: 

R. Corey Grove
Authorized Representative of BETARMA